

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 04-7432

GREGORY A. RICHARDSON,

Petitioner - Appellant,

versus

GENE JOHNSON, Director, VDOC,

Respondent - Appellee.

Appeal from the United States District Court for the Western District of Virginia, at Roanoke. James C. Turk, Senior District Judge. (CA-04-455-7)

Submitted: February 9, 2005

Decided: February 14, 2005

Before WILKINSON, MICHAEL, and SHEDD, Circuit Judges.

Dismissed by unpublished per curiam opinion.

Gregory A. Richardson, Appellant Pro Se.

Unpublished opinions are not binding precedent in this circuit.
See Local Rule 36(c).

PER CURIAM:

Gregory A. Richardson seeks to appeal from the district court's order dismissing his petition filed under 28 U.S.C. § 2254 (2000) without prejudice because he failed to exhaust state court remedies. Because Richardson can exhaust his state court remedies and re-file his petition, his appeal is interlocutory and not subject to appellate review under Domino Sugar Corp. v. Sugar Workers Local 392, 10 F.3d 1064, 1066-67 (4th Cir. 1993). Accordingly, we deny Richardson's motion to proceed in forma pauperis, deny a certificate of appealability, and dismiss the appeal. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

DISMISSED